United Nations A/C.3/63/SR.23

General Assembly
Sixty-third session

Official Records

Distr.: General
19 December 2008

Original: English

Third Committee

Summary record of the 23rd meeting
Held at Headquarters, New York, on Thursday, 23 October 2008, at 3 p.m.

Chairman: Mr. Majoor ..... (Netherlands)
later: Mr. Margarian (Vice-Chairman) ..... (Armenia)
later: Mr. Majoor (Chairman) ..... (Netherlands)

Contents

Agenda item 56: Advancement of women (*continued*)

(a) Advancement of women (*continued*)

Agenda item 55: Social development (*continued*)

(b) Social development, including questions relating to the world social situation and to youth, ageing, disabled persons and the family (*continued*)

(c) Follow-up to the International Year of Older Persons: Second World Assembly on Ageing (*continued*)

(d) United Nations Literacy Decade: education for all (*continued*)

Agenda item 97: Crime prevention and criminal justice (*continued*)

Agenda item 64: Promotion and protection of human rights (*continued*)*

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)*

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*)*

(e) Convention on the Rights of Persons with Disabilities (*continued*)*

* Items which the Committee has decided to consider together.

This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, room DC2-750, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

08-56532 (E)

The meeting was called to order at 3.05 p.m.

Agenda item 56: Advancement of women (*continued*)

(a) Advancement of women (*continued*) (A/C.3/63/L.13)

Draft resolution A/C.3/63/L.13: Trafficking in women and girls

1. **Ms. Banzon-Abalos** (Philippines), speaking as a sponsor and introducing the draft resolution, said that Azerbaijan, Belarus, Chile, Honduras, Kyrgyzstan, Malawi, Paraguay and Peru had joined the sponsors. She looked forward to the adoption of the draft resolution: a gender-based approach to trafficking was clearly required, because approximately 80 per cent of the victims were female. In particular, the draft resolution aimed to deal with the demand side of trafficking by targeting users and buyers, establish more specific areas of international cooperation and protect victims from being abused a second time by authorities.

2. **Mr. Khane** (Secretary of the Committee) said that Brazil, Burkina Faso, Cameroon, Côte d'Ivoire, Ethiopia, Ghana, Haiti, Indonesia, Liberia, Mauritius, Mongolia, Nigeria, Panama and Senegal had joined the sponsors.

Agenda item 55: Social development (*continued*)

(b) Social development, including questions relating to the world social situation and to youth, ageing, disabled persons and the family (*continued*) (A/C.3/63/L.6)

Draft resolution A/C.3/63/L.6: Follow-up to the International Year of Volunteers

3. **Mr. Khane** (Secretary of the Committee) said that implementation of the provisions contained in paragraph 14 would be considered in accordance with established budgetary procedures in the context of the proposed programme budget for the biennium 2010-2011. The adoption of the draft resolution would therefore not entail any additional appropriations under the programme budget for the biennium 2008-2009.

4. **Ms. Maierá** (Brazil), speaking as a sponsor, announced that Andorra, Argentina, Bulgaria, China, Dominican Republic, Ireland, Luxembourg, Monaco, Nicaragua, the Philippines, Portugal, the Republic of Moldova, Romania, San Marino, Singapore, Tanzania, Turkey, United Kingdom of Great Britain and Northern Ireland and Uruguay had joined the sponsors. She said that the word "priority" should be deleted from paragraph 13.

5. **Mr. Khane** (Secretary of the Committee) said that the sponsors had been joined by Angola, Armenia, Australia, Austria, Azerbaijan, Bangladesh, Bosnia and Herzegovina, Botswana, Canada, Croatia, Cyprus, the Czech Republic, Denmark, El Salvador, France, Greece, Hungary, Israel, Jamaica, Kazakhstan, Latvia, Lebanon, Malawi, Mongolia, Norway, Papua New Guinea, Paraguay, Poland, Serbia, Slovakia, Sweden, the former Yugoslav Republic of Macedonia, Uganda and the United States of America.

6. *Draft resolution A/C.3/63/L.6, as orally revised, was adopted.*

7. **Mr. Yamaguchi** (Japan) said that his delegation attached great importance to volunteerism and had witnessed first hand the value of volunteers after the death of a Japanese United Nations volunteer in 1993 and the Kobe earthquake in 1995. As a sponsor, Japan therefore strongly supported the aims of the draft resolution.

8. **Ms. Kreibich** (Germany) said that her delegation strongly supported the United Nations Volunteers; its programmes were diverse and universal in scope and its volunteers came from over 160 countries and served in over 140 countries. The United Nations Volunteers was an important actor in South-South cooperation and also played an important role in advocating the use of volunteers. Germany called on Member States to consider making contributions to the United Nations Volunteers in order to enable it to implement new and innovative strategies.

Agenda item 55 (c): Follow-up to the International Year of Older Persons: Second World Assembly on Ageing (*continued*) (A/C.3/63/L.4)

Draft resolution A/C.3/63/L.4: Follow-up to the Second World Assembly on Ageing

9. **The Chairman** said that the draft resolution contained no programme-budget implications.

10. **Ms. Akbar** (Antigua and Barbuda), speaking on behalf of the Group of 77 and China as sponsors, read out revisions to the text. Paragraph 4 should now read, "*Encourages* Member States to overcome obstacles to the implementation of the Madrid Plan of Action by

devising strategies that take into account the entirety of the human life-course and foster intergenerational solidarity". The order of former paragraphs 7 and 8 should be reversed. In former paragraph 7, the words "and participatory" should be added after the word "inclusive", and the words "developing effective policies" should be added after the words "in the interest of".

11. The following three new paragraphs should be inserted after paragraph 10: "11. *Calls upon* Governments to ensure, as appropriate, conditions that enable families and communities to provide care and protection to persons as they age and to evaluate improvement in the health status of older persons, including on a gender-specific basis, and to reduce disability and mortality; 12. *Encourages* Governments to continue their efforts to implement the Madrid International Plan of Action and to mainstream the concerns of older persons into their policy agendas, bearing in mind the crucial importance of family intergenerational independence, solidarity and reciprocity for social development and the realization of all human rights for older persons, and to prevent age discrimination and to provide social integration; 13. *Encourages* the international community to enhance international cooperation to support national efforts to eradicate poverty, in keeping with internationally agreed goals, in order to achieve sustainable social and economic support for older persons".

12. In former paragraph 13 (now 16), the word "*Stresses*" should be replaced by "*Reiterates*"; the word "further" should be inserted after the word "facilitate"; and the words "as well as the result of its first review and appraisal cycle" should be inserted after the words "Madrid Plan of Action". In former paragraph 16 (now 19), the words "specifically on protecting the rights of older persons" should be replaced by the words "on the implementation of the present resolution, including information on the promotion and protection of human rights as they pertain to older persons".

13. She said that Andorra, Austria, Belgium, Bulgaria, Croatia, the Czech Republic, Lithuania, Luxembourg, Malta, Mexico, Monaco, Montenegro, Poland, Portugal, Romania, San Marino, Slovakia, Slovenia, Spain, Sweden, Turkey and the United Kingdom of Great Britain and Northern Ireland, had joined the sponsors of the draft resolution since its introduction. The Group of 77 and China looked forward to its adoption without a vote.

14. **Mr. Khane** (Secretary of the Committee) said that Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Canada, Cyprus, Denmark, El Salvador, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Israel, Italy, Kazakhstan, Latvia, the Netherlands, Norway, the Republic of Moldova, Serbia and the former Yugoslav Republic of Macedonia had become sponsors.

15. *Draft resolution A/C.3/63/L.4, as orally revised, was adopted.*

Agenda item 55 (d): United Nations Literacy Decade: education for all (*continued*) (A/C.3/63/L.7)

Draft resolution A/C.3/63/L.7: United Nations Literacy Decade: education for all

16. **The Chairman** said that the draft resolution had no programme-budget implications.

17. **Ms. Ochir** (Mongolia) read out further revisions to the text. In paragraph 5, after the words "to devise innovative strategies for reaching", the words "the groups disproportionately affected by illiteracy, in particular" should be inserted. The final part of paragraph 10, beginning with the words "and requests", should be deleted. The final part of paragraph 11, after the words "United Nations system,", should be replaced by "a strategic framework for renewed cooperation and action, on the basis of the mid-Decade review and the outcomes of the Regional Conferences in Support of Global Literacy, including the above three priorities". Paragraph 13 should be deleted.

18. She announced the following additional sponsors: Andorra, Azerbaijan, China, Cuba, the Czech Republic, Egypt, Germany, Ghana, Guyana, Ireland, Italy, Japan, Kazakhstan, Kuwait, Lebanon, the Libyan Arab Jamahiriya, Lithuania, Luxembourg, Malawi, Morocco, Peru, Portugal, Qatar, the Republic of Moldova, Romania, the Russian Federation, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Thailand, Turkey, Turkmenistan, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania, the United States of America, Uruguay, the Bolivarian Republic of Venezuela and Viet Nam.

19. **Mr. Khane** (Secretary of the Committee) said that the sponsors had been joined by Afghanistan,

Albania, Algeria, Angola, Austria, Barbados, Belarus, Belgium, Bosnia and Herzegovina, Botswana, Brazil, Burkina Faso, Cameroon, Canada, Côte d'Ivoire, Croatia, Cyprus, Denmark, the Dominican Republic, Estonia, Ethiopia, France, Greece, Honduras, Hungary, Iceland, Indonesia, Iraq, Jamaica, Kenya, Latvia, Lesotho, Liberia, Madagascar, Malta, Mauritania, the Netherlands, Nigeria, Norway, Papua New Guinea, the Philippines, Poland, Saudi Arabia, Serbia, the Sudan, Suriname, Swaziland, the former Yugoslav Republic of Macedonia, Timor-Leste, Tunisia, the United Arab Emirates and Zambia.

20. *Draft resolution A/C.3/63/L.7, as orally revised, was adopted.*

Agenda item 97: Crime prevention and criminal justice (*continued*) (A/C.3/63/L.2 and L.11)

Draft resolution A/C.3/63/L.2: Preparations for the Twelfth United Nations Congress on Crime Prevention and Criminal Justice

21. **Mr. Khane** (Secretary of the Committee) said that adoption of the draft resolution, recommended by the Economic and Social Council, would not entail any additional appropriation for the period 2008-2009; resource requirements for the biennium 2010-2011 would be considered in the context of established budgetary procedures.

22. *Draft resolution A/C.3/63/L.2 was adopted.*

Draft resolution A/C.3/63/L.11: United Nations African Institute for the Prevention of Crime and the Treatment of Offenders

23. **The Chairman** said that the draft resolution contained no programme-budget implications.

24. **Ms. Awino-Kafeero** (Uganda) read out revisions to the text. In the first preambular paragraph, "resolution 61/174" should be replaced by "resolution 62/174". In paragraph 9, the words "and its Protocols thereto, as well as the United Nations Convention against Corruption" should be inserted after the words "the United Nations Convention against Transnational Organized Crime". In paragraph 12, the words "the United Nations Crime Prevention and Criminal Justice Programme and" should be deleted. She added that Costa Rica had become a sponsor. She trusted that the draft resolution would be adopted without a vote.

25. **Mr. Khane** (Secretary of the Committee) said that Nicaragua had become a sponsor.

26. *Draft resolution A/C.3/63/L.11 was adopted.*

Agenda item 64: Promotion and protection of human rights (*continued*) (A/63/123, 281 and 370)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/63/161, 223, 259, 263, 270-272, 274, 275, 278, 286-290, 292, 293 and Corr.1, 299, 313, 318, 337, 340, 365, 367 and 486)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/63/322, 326, 332, 341, 356 and 459)

(e) Convention on the Rights of Persons with Disabilities (*continued*) (A/63/264 and Corr.1)

27. **Mr. Attiya** (Egypt) said that his delegation would appreciate the views of the Special Rapporteur on the action that might be taken to address the deteriorating health conditions in the West Bank, the occupied territories and the Gaza Strip in accordance with international human rights and humanitarian law. The right to life of a people or nation did not have priority over the right to life of another group of people or nation. His report (A/63/326) drew attention to large-scale violations of human rights and excessive use of force by Israel, which had violated the right of the Palestinian people to self-determination, freedom of expression and assembly, and mental and physical health. His delegation looked forward to a two-State solution, with Israel and an independent Palestinian State existing side by side in peace within internationally recognized and secure borders.

28. **Mr. Bahreyni** (Islamic Republic of Iran) said it was regrettable that the Special Rapporteur had not been able to visit the occupied territories. Given that Israel had continued to violate the rights of the Palestinian people in disregard of the International Court of Justice, his delegation had informed the Special Rapporteur that urgent and decisive action was needed to protect the Palestinian people. His delegation would therefore like to know what action might be taken to oblige Israel to comply with United Nations resolutions concerning the Palestinian territories occupied since 1967.

29. **Ms. Duncan-Lira** (United States of America) said that the United States remained committed to the well-being of the Palestinian people and to the vision of two States, Israel and Palestine, living side by side in peace and security. However, the report was one-sided and undermined the credibility of the United Nations. It also mischaracterized the Annapolis process, which had provided a framework for sincere and substantive negotiations. Furthermore, the report did not mention the terrorist attacks on Israeli civilians or recognize Israel's right to self-defence.

30. With respect to the recommendation that the General Assembly should seek an advisory opinion of the International Court of Justice, her delegation noted that established procedures for resolving the conflict should be allowed to run their course. Her delegation also had serious concerns about any attempt to use the Security Council to make the International Court of Justice advisory opinions binding and rejected the report's conclusions with respect to Israel's violations. It was regrettable that the Human Rights Council had not seen fit to review the one-sided mandate of the Special Rapporteur, who was obliged to focus on potential violations committed by one party in a two-party conflict. It was therefore essential to follow the recommendation made by the Special Rapporteur that his mandate should be broadened.

31. **Mr. Hassan** (Malaysia) said that, given the significant deterioration in the human rights situation in the occupied territories, his delegation was very concerned about the plight of the Palestinian people. His delegation welcomed the report's recommendations and called on the concerned party to comply with the advisory opinion of the International Court of Justice regarding the separation wall. It would be interesting to know what action might be taken by the international community to alleviate the plight of the Palestinian people in the context of the restrictions on movement of goods and funds.

32. **Mr. Vigny** (Switzerland) requested additional information on the responsibilities of Israel and Palestine in ensuring healthy living conditions for the Palestinian people. It would appreciate additional information on the forthcoming visit of the Special Rapporteur and wondered whether it might be possible for him to carry out a joint mission with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

33. **Mr. Falk** (Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967) said it was important to emphasize the need to persuade Israel to cooperate with the Special Rapporteur and facilitate a visit to the occupied territories. It was regrettable that his ability to conduct an objective assessment of the situation in the occupied territories had been called into question. Furthermore, reliance on the Annapolis peace negotiations did not seem to draw attention to the fact that Israel had not upheld its undertaking to stop settlement activity. Furthermore, it was surprising that neither the United States nor Israel had noted the existing ceasefire between Gaza and Israel, which had reduced the level of violence and insecurity at the border.

34. The report had highlighted the excessive use of force by Israel. It did not call into question the right of a State to legitimate self-defence; it called into question the use of force in inappropriate situations. It was not reasonable to argue that the conflict should be resolved using established procedures if those procedures had not managed to resolve the conflict in over 40 years. The United Nations must find alternative strategies and procedures to relieve the daily suffering of the Palestinian people.

35. As to what could be done to protect the human rights of the Palestinian people in the occupied territories, there were three possible courses of action. First, it would be advisable to consider how the concept of the responsibility to protect could be applied to the occupied Palestinian territories; failure to use that procedure could only be explained by political pressures. Secondly, in his statement made to the General Assembly in 2006, the President of Brazil had questioned the effectiveness of the United Nations and the international community in finding a solution to the conflict. Neither the United Nations nor the Quartet had managed to find a solution. The President's call for a United Nations conference involving countries of the region and other countries therefore seemed like a good idea. Thirdly, it was essential that the Special Rapporteur should be given access to the occupied Palestinian territories and allowed to make an official visit. In conclusion, he said it was time for the United Nations and the international community to convert rhetoric into concrete actions in order to ensure that the Palestinian people were protected in accordance with international law.

36. **Mr. Nowak** (Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment) said that, although article 5 of the Universal Declaration of Human Rights banned torture, his visits had found many examples of torture and appalling conditions of detention. The strong reliance on confessions in many justice systems exerted pressure on police to extract such confessions. The opacity and secrecy surrounding places of detention also facilitated torture. Methods ranged from beatings and electrocution to suspension from the ceiling and waterboarding. In many countries, high numbers of pre-trial detainees contributed to overcrowding, poor hygiene, corruption and violence between prisoners. Such conditions often amounted to cruel, inhuman or degrading treatment. Outside prison, there was little awareness of the situation; it was important to transform the assumption that places of detention were closed and hidden from public view into one of transparency and open access.

37. Despite the adoption of the Convention on the Rights of Persons with Disabilities and its Optional Protocol, even disabled persons continued to be subjected to torture or cruel, inhuman or degrading treatment. They were often segregated from society, restrained, neglected and subjected to physical, sexual or mental violence. They had been disproportionately exposed to medical experimentation and irreversible medical treatments without their consent. The Convention contained a strong non-discrimination clause and required free and informed consent for medical treatments. In that connection, the Convention against Torture and Other Cruel, Inhuman or Degrading Punishment extended the State's responsibility to abuses committed in the private sphere, and should be interpreted to include the State's responsibility to protect persons within its jurisdiction. He therefore recommended that States should become party to the Convention on the Rights of Persons with Disabilities and act to prevent torture by enacting legislation, establishing independent monitoring bodies and raising awareness.

38. The Istanbul Statement on the Use and Effects of Solitary Confinement (A/63/175, annex) constituted a useful tool to protect the rights of detainees. Solitary confinement was typically used as a form of disciplinary punishment or judicial sentence, or to isolate suspects during investigations. It was sometimes used as a treatment or punishment for disabled persons. The imposition of solitary confinement to extract a confession amounted to torture. When carried out for other purposes, it may amount to cruel, inhuman or degrading treatment. He recommended that it should be kept to a minimum particularly in the pre-trial period, specifically regulated by law, and exercised under judicial supervision.

39. His visit to Equatorial Guinea, originally scheduled for early 2008, would now take place in November. Dates for a visit to Iraq were under consideration. He hoped that dates for a visit to the Russian Federation, which had been postponed in October 2006, would be forthcoming. He had visited Denmark, including Greenland, in May 2008. Prisons there were of a high standard, and he had not received allegations of torture or ill-treatment. He welcomed the principle of normalization, according to which life inside prison should reflect life outside it. However, he regretted that Danish criminal law did not recognize a specific crime of torture. Solitary confinement, particularly of pre-trial detainees, remained worrying. He was also concerned by allegations that rendition flights had operated through Denmark and Greenland, and by plans to return suspected terrorists to countries that practised torture.

40. Together with the Special Rapporteur on violence against women, he had in July 2008 visited the Republic of Moldova, including its Transdnistrian region. Despite recent progress, they had been concerned about gaps between the normative framework and actual conditions. The protective infrastructure for victims of violence was insufficient, ill-treatment in the initial period of detention was widespread, the complaints mechanism was ineffective, and detention conditions caused concern. The Special Rapporteurs had made recommendations accordingly. They welcomed recent legislation on family violence and called for it to be implemented.

41. *Mr. Margarian (Armenia), Vice-Chairman, took the Chair.*

42. **Mr. Gonnet** (France), speaking on behalf of the European Union, expressed regret that 23 countries had refused requests for visits. All States parties were urged to cooperate fully with the Special Rapporteur. The fact that he had visited two European countries indicated that no region of the world was free of the scourge of torture. In the light of the Special Rapporteur's

upcoming visit to Equatorial Guinea, information about plans for follow-up would be appreciated, as would additional information on the creation of national mechanisms for independent and effective implementation. It would be useful to know the Special Rapporteur's thoughts on the concrete implementation of the standards laid down by the Convention on the Rights of Persons with Disabilities in regard to surveillance of detention centres. Lastly, the Special Rapporteur was asked to comment on his mandate's activities with regard to capital punishment and on the connections between the death penalty and other cruel, inhuman or degrading treatment.

43. **Mr. Banos** (United States of America) said that, while it was not clear that cruel acts committed against people with disabilities by private individuals could be considered torture under international instruments, perpetrators should be brought to justice in national courts and victims should have redress. It would be helpful if the Special Rapporteur could point to the domestic law of a particular country which might serve as a model for dealing with private acts of abuse against persons with disabilities.

44. *Mr. Majoor (Netherlands) resumed the Chair.*

45. **Ms. Pi** (Uruguay) noted that the references to her country in paragraphs 38 and 63 of the interim report (A/63/175) were completely out of date. Her country was a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and other relevant international instruments and had faithfully discharged its international obligations. None of the events alleged had been brought up or denounced by human rights organizations over the past three years. There was comprehensive domestic legislation to prevent and punish torture in Uruguay. It was forbidden to inflict torture on any person, even in the case of an order from a superior or special circumstances. Police ensured full protection of the health and physical integrity of those in their custody and took measures to provide medical and psychological care whenever necessary. In reference to the disabled, Uruguayan law defined torture as any act intended to cause psychological harm or diminish capacity, even if no physical pain was caused. There was an extensive body of law protecting the disabled.

46. With regard to a specific case which had been the subject of an individual communication in 1981, the Human Rights Committee had decided in 1984 that the Government of Uruguay must provide reparations for harm suffered as the result of ill-treatment during the military dictatorship. A compensation agreement had been reached and discharged by the State. In 2005, Uruguay had issued an invitation to all human rights organizations and mechanisms and would like to reiterate that invitation.

47. **Ms. Phumas** (Thailand) asked whether the Special Rapporteur's interim report (A/63/175) was an appropriate starting point for dealing with the rights of persons with disabilities. In addition, information on how to further respond to the call for gender sensitivity and mainstreaming, especially with regard to women with disabilities who were subjected to torture or ill treatment, would be appreciated.

48. **Mr. Vigny** (Switzerland) asked what measures should be taken to ensure that negligence, isolation and violence, including physical, mental and sexual violence, were recognized as forms of torture, given that they often remained invisible and unrecognized. Long-term solitary confinement of prisoners was still widely practised, which raised the question of how to advance human rights in that regard in particular.

49. **Ms. Raabymagle** (Denmark), referring to a statement in the interim report, stressed that Denmark had no plans to resort to diplomatic assurances before returning suspected terrorists to countries known for their practice of torture. A working party had been established to consider the possibility for administrative deportation of foreign nationals deemed a danger to national security, without risking torture, the death penalty or other cruel, inhuman or degrading treatment or punishment. The working party had a broad mandate and was expected to consider so-called diplomatic assurances. Any steps taken would respect Denmark's international obligations.

50. **Mr. Michelsen** (Norway) asked if the Special Rapporteur had discussed with the Committee against Torture the application of the torture and ill-treatment protection framework to persons with disabilities to ensure that there were no competing interpretations.

51. **Ms. Luther Ogbomode** (Nigeria) requested further information about the use of solitary confinement in Kaduna Prison in her country. Referring to paragraph 78 (g) of the interim report, she said that her country was prepared to address the situation appropriately. However, solitary confinement

was widely used around the world to restrain violent prisoners and prevent them from harming themselves and others, including prison officials. Since the return of democracy in her country, human rights and prison reform had been under way. human rights officers had been placed in prisons across the country. For the first time, there had been a budget allocation for prison decongestion.

52. **Mr. Nowak** (Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment) said that Governments which ratified or acceded to the Optional Protocol to the Convention against Torture were obligated to establish national preventive mechanisms which should take the disabled into account in prisons and psychiatric hospitals. The national preventive mechanisms must be well-resourced, independent and able to make regular visits. He often appealed to Governments not to carry out death sentences against minors or if the method of execution was cruel or inhuman. In such cases, he believed that execution was a form of torture. In addition, it might be the case that capital punishment was generally not compatible with an absolute ban on cruel, inhuman or degrading treatment or punishment.

53. The definition of torture in article 1 of the Convention against Torture was narrow, but it did refer to State acquiescence in private acts of torture, so that, for example, domestic violence was considered a human rights violation and a violation of the ban on cruel treatment if the Government did not perform due diligence to protect potential victims. There were currently no examples of best practices in the area of national legislation protecting the disabled from domestic abuse, but many States had comprehensive domestic-violence legislation protecting not only women and children, but also the disabled.

54. The mention of the case occurring under the military dictatorship in Uruguay had been used merely as a reference to case law, without the intent to imply that such situations were current or recent.

55. The Rapporteur's latest report to the Human Rights Council took up the question of human rights of women in relation to torture, including private acts of rape and other forms of torture. That also applied to persons with disabilities, particularly women with disabilities, who were more vulnerable. Solitary confinement should be used only as a last resort. Sometimes it was necessary in pre-trial detention to separate suspects, but that should occur only with judicial review and for brief periods. A conversation with the former Minister of Justice of Denmark had left the impression that plans for rendition with diplomatic assurances were developing, but he was pleased if that was not the case.

56. He was in constant cooperation with the Committee against Torture, and in his upcoming meeting with them he planned to raise the issue of applying the torture framework to persons with disabilities. He had mentioned the case of solitary confinement in Nigeria because it involved a minor with disabilities. Whatever could be done in such cases would be much appreciated.

57. **Ms. Chan** (Singapore) said that she failed to see the link between the death penalty and torture, since the death penalty was a judicial measure exercised with care in accordance with international law. She questioned why the delegation had asked the question. She cautioned the Special Rapporteur regarding expressing his personal views in a way which might compromise the carrying out of his duties and cautioned States regarding injecting personal and national views into the mandate of the Special Rapporteur, as the mandates had been established with much care and agreed upon by all. The Special Rapporteur should not take comments by one State as reflective of the opinion of the entire international community.

58. **Ms. Ochir** (Mongolia) said that, since the Special Rapporteur's visit to her country in 2005, her Government had taken practical and policy measures. Therefore she had been surprised to see that his most recent report contained statements about Mongolia identical to some which had been included in an earlier report. Apparently material had been cut and pasted. She asked if the Special Rapporteur had not received updated information from the Government of Mongolia. If so, she hoped that he would take that into account in his final report.

59. **Mr. Nowak** (Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment) said he had simply cited examples from his mission report having to do with solitary confinement. In fact, despite several requests to the Government of Mongolia, he had received no new information. He would be happy to receive information

indicating that his recommendation had been taken into account.

60. There was a clear link between the death penalty and torture if the method of execution was particularly cruel. Punishment was one of the purposes of torture, according to article 1 of the Convention against Torture. If a particular punishment inflicted terrible suffering, then it might be a form of torture. The General Assembly had, the previous year, called for a moratorium on the death penalty. In response, he had requested the General Assembly and the Human Rights Council to further examine the extent to which the death penalty and circumstances surrounding it violated or interfered with the absolute prohibition on torture.

61. **Ms. Chan** (Singapore) thanked the Special Rapporteur for his clarification and agreed that the issue was the method of execution rather than the death penalty itself. She noted that, while General Assembly resolution 62/149 called for a moratorium on the use of the death penalty, the Special Rapporteur should not take it that that issue had been added to his mandate. Furthermore, the resolution in question had not been adopted by consensus and could not be considered to reflect the general view of the General Assembly.

62. **Ms. Rolnik** (Special Rapporteur on adequate housing as a component of the right to an adequate standard of living), introducing her report (A/63/275), said that the importance of adequate housing for each and every individual should be at the forefront of public attention, especially at a time of global financial crisis. According to the United Nations Human Settlements Programme (UN-Habitat), approximately one third of the world's population, in developing as well as developed countries, lived in inadequate housing and the number of homeless continued to grow. That situation would persist so long as a home was considered a commodity and not a right. She would work to increase awareness of the right to adequate housing, in particular among those directly involved, including Government officials, urban and development planners and civil-society activists, and to share best practices.

63. Homelessness in both the developed and developing countries, caused by such factors as poverty, lack of affordable housing, conflict or natural disasters, was the most visible and severe violation of the right to adequate housing. Furthermore, more than one billion people lived in unrecognized settlements or slums, without access to basic services. Living in such settlements also meant their residents often were not recognized as citizens and were denied a wide range of civil, political and social rights.

64. The lack of affordable housing, whether due to growth in prices or lack of access to credit, was one of the main barriers to the right to adequate housing. Gentrification of neighbourhoods, the current financial and credit crises, and increases in home prices and rents, all forced individuals and families into spending more on housing at the expense of other needs. Across the world, hundreds of thousands of people were being forced out of their homes, disproportionately affecting children and vulnerable groups and intensifying social conflict and marginalization. Recalling the basic principles and guidelines on development-based evictions and displacement drafted by her predecessor, she called for appropriate legislation to prevent evictions as well as for adequate public housing and development policies.

65. The right to non-discrimination in regard to adequate housing was a fundamental dimension of her mandate. In many parts of the world, ethnic and religious minorities and indigenous peoples were disproportionately affected by inadequate housing and living conditions. The poor and the marginalized likewise suffered housing discrimination. It could manifest itself in such forms as discriminatory land confiscation and evictions and discrimination against women with respect to housing, inheritance and property rights.

66. She intended to explore a number of themes related to the right to adequate housing. Mega-events such as international sports events could for example provide an opportunity to develop infrastructure but could also result in forced evictions; the planning of such projects should promote sustainability and ensure protection of human rights. In post-disaster and post-conflict situations she would try to highlight the importance of providing adequate housing to those affected and work to bridge the gap between the humanitarian and development phases. Climate change, including natural disasters, could force people into inadequate housing and living conditions; a rights-based approach to efforts to address climate change would underline the principles of participation in decision-making and empowerment and give priority to the most vulnerable. She would also underscore the

need to respect the right of migrant workers to adequate housing and decent living conditions.

67. Rather than focusing on creating so-called world-class cities, a process that frequently boosted prices and diverted land for the benefit of higher-income groups, urban planners should use appropriate land management to rein in speculation and prices. She proposed to study the tools available to promote social inclusion in and through housing, not only to guarantee better living conditions, but also to reduce urban blight and prevent social conflict and violence.

68. The current financial crisis was a stark reminder that the belief that the markets would provide adequate housing for all was unfounded. She stressed that a home was not a mere commodity but rather a place to live in dignity, a right guaranteed to every human being. States must integrate the right to adequate housing into urban planning and housing policies. In that context, she called for States to give the right to adequate housing the same priority given to the current rescue of their financial systems, by immediately adopting measures to help those left homeless by that crisis. Adoption of the draft Optional Protocol to the International Covenant on Economic, Social and Cultural Rights on establishing an individual complaint mechanism would be a tangible sign of Member States' equal commitment to all human rights, including the right to adequate housing.

69. **Ms. Pérez Álvarez** (Cuba) recalled the devastating effects of climate change, for example the recent hurricanes, on the Caribbean countries, particularly Cuba, and asked whether the Special Rapporteur intended to make specific recommendations regarding the response to climate change and natural disasters, including with regard to the role of the United Nations Development Programme in reconstruction efforts.

70. **Ms. Basso** (France), speaking on behalf of the European Union, stressed the importance of adequate housing for all. She wondered what effect the adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights would have on the Special Rapporteur's mandate and whether the Special Rapporteur would provide more information on her efforts, including missions, to deal with the consequences of climate change.

71. **Ms. Phumas** (Thailand) asked what new steps the Special Rapporteur intended to take to raise the visibility of the right to adequate housing among stakeholders and the media. She also wondered how the Special Rapporteur intended to promote a human rights-based approach to adequate housing while remaining mindful of the specific situations of individual States.

72. **Mr. Zhou** Xianteng (China) asked how the Special Rapporteur intended to deal with such issues as poverty and the current international economic crisis while promoting the right to adequate housing.

73. **Ms. Maierá** (Brazil) expressed confidence in the Special Rapporteur's ability and pledged her delegation's full support for implementation of the right to adequate housing and a decent standard of living, which were fundamental aspects of the right to development.

74. **Ms. Rolnik** (Special Rapporteur on the right to adequate housing as a component of the right to an adequate standard of living), in response to the representative of Cuba, said that climate change was a real concern not only in the Caribbean but also for the small Pacific island States and coastal areas. Preventive, risk-avoidance and risk-mitigation measures must be adopted in areas that could be protected from the effects of climate change. Adequate contingency plans should be developed to deal with emergencies, for example large-scale forced displacement or migration of populations.

75. Each year of her mandate she would choose a major thematic area to report on more specifically. She would undertake missions to countries particularly affected by those issues and work to disseminate related best practices. She had already requested permission to undertake missions to a number of States and had for example received a positive response from Maldives. She would also work to develop a broad network of academics and stakeholders with a view to exchanging information on the theme areas.

76. Turning to the questions raised by the representative of Thailand, she said that sharing information about the right to adequate housing and increasing awareness of that right with those working directly in the housing field would pose a challenge. She herself, upon assuming her mandate, had found it difficult to access relevant information. She would try to make documents and information about the right to adequate housing more accessible to the general public and stakeholders. Her role would be to disseminate that

information and reinforce her coordination with such bodies as the Third Committee and the Human Rights Council.

77. She agreed that efforts to promote the right to adequate housing must be sensitive to the specific circumstances of individual countries, such as available resources and cultural considerations. She regretted the efforts of some multilateral agencies that had in the past attempted to promote a single model, that of private home ownership for each family. There could be no "one size fits all" approach to adequate housing; innovative and varied solutions must be developed, including home ownership and rental housing, State-sponsored and private-sector initiatives, in order to ensure that housing policy and conditions were not purely market-based.

78. Turning to the questions asked by the representative of France, she stressed that States must incorporate the right to adequate housing into their domestic legislation. That right must also include appropriate mechanisms for those whose right to housing had been violated to seek redress. In that context she reiterated the importance of adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which would serve as an additional instrument to empower society as a whole.

The meeting rose at 6 p.m.